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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,438	12/24/2001	Richard H. Hicks	01-470-WSB	6056

7590 09/05/2002

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255 N. Lincoln Street  
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EXAMINER

MEDLEY, MARGARET B

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 09/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 10/029,438

Applicant(s) HICKS

Examiner MEDLEY

Group Art Unit 1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

### DETAILED ACTION

A request for continuation in part of the parent application 09/588,029 was filed in the instant U.S. Application serial No. 09/588,029 on December 24, 2001. An action on the merits follows.

1. The disclosure is objected to because of the following informalities: On page 4, line 19 of the instant application a space should be inserted between "a" and "preference" for clarity.

Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9 -18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 4 and in claim 14, line 6 the term "types" is indefinite and should be deleted. The last line appearing in claim 9 is indefinite and confusing in that it is unclear if the hydrocarbon is part of the additive or if it is the same "liquid hydrocarbon fuel" appearing in line 1 of the said claim. Clarification is requested. Claim 14 is indefinite for the term "and" appearing at the end of the claim without any punctuation marking to end the claims. It is unclear to the examiner as to what else applicant intend to include in the claim.

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Claims 9-18 will not be treated on the merits because the scope of claims cannot be determined.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art.

Applicant makes admission on record at the first paragraph on page 3 of the instant application that prior art Grangette U.S. Patent 4,396,400 teaches and discloses that namely from 100 to 5000 ppm preferably 100 to 1000 ppm, water is put into an emulsion which is completely clear and very stable by means of certain specific surfactants compounds for desired improvement of a gas oil, note column 2, lines 10-19 and Example 2 of Table I and Example 17 of Table IV. The surfactant is 10 to 5000 ppm, preferably 25 to 2000 ppm surfactant; 0.5 to 1 part by co-surfactant, column 3, lines 41-52 and column 4, lines 5-12. The surfactant includes amphoteric surfactants, column 2, lines 22 to end and anionic surfactants, column 3, line 11 to 31. The teachings of McCoy 3,876,391, column 1, lines 49 to 58 and Wenzel 4,083,698, column 1, line 60 to column 2, lines 1-2 are incorporated into Grangette. McCoy teaches nonionic surfactants and Wenzel teaches cationic surfactants in combination with an alcohol surfactant are incorporated into hydrocarbon fuels providing stable emulsions.

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The Admitted Prior Art Grangette renders the instant claim additives obvious because the lower range of 100 ppm water of Grangette suggest the upper range of 95 ppm water of the instant claims in the absence of evidence of record to the contrary. It is the examiner's position that from 0% to 25% by wt. co-surfactant read on the component not being present. When the co-surfactant is absent the instant claims comprises 10 to 65% by wt. water and 90 to 35 % surfactants and the instant ranges are rendered obvious by the range of surfactant to water of Grangette.

The prior art from the parent application has been reviewed and reconsidered.

The prior art cited but not applied further teach fuel hydrocarbon additives comprising water surfactants of the same nature as claimed by applicants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is 703 308-2518. The examiner can normally be reached on Monday-Friday from 7:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-0661.

Examiner Medley/ng  
September 3, 2002

  
**MARGARET MEDLEY**  
**PRIMARY EXAMINER**